IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

WP(C).No. 37694 of 2007(K)

PETITIONER:

P.MANOJ, S/O.KUNHIRAMAN NAIR,
AGED 35 YEARS, 9/430, PANTHAKKALATHIL HOUSE,
NADUVATH P.O., WANDOOR, MALAPPURAM DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

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1. THE TAHSILDAR,
NILAMBUR TALUK.

2. THE ADDITIONAL DISTRICT MAGISTRATE,
MALAPPURAM.

3. THE SUB INSPECTOR OF POLICE,
EDAKKARA POLICE STATION.

4. THE MAMPAD GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY.

5. THE DISTRICT COLLECTOR,
MALAPPURAM.

6. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, TRIVANDRUM.

BY GOVERNMENT PLEADER SMT. C.K.REMANI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C) 37694 of 2007

Dated: December 19, 2007

JUDGMENT

The lorry belonging to the petitioner has been seized by the respondents on the allegation that it was engaged in unauthorised transportation of river sand. It appears that the seizure was on 10th of December, 2007. Now that proceedings have been initiated, the matter has necessarily to go to the 5th respondent for passing orders in terms of Rule 27 of the Protection of River Banks and Regulation of Removal of Sand Rules, 2002.

2. Petitioner points out that Ext.P2 is the pass issued to the petitioner by the 4th respondent Panchayath and the endorsement on Ext.P2 shows that the pass was checked at the time of the seizure of the vehicle. The petitioner also referred to Ext.P3, a communication issued by the 4th respondent, confessing that they had committed a mistake in recording time mentioned in Ext.P2 pass. This communication is also addressed to the 2nd respondent.

3. In view of the contents of Ext.P3 issued by the 4th

respondent, I feel that it will be an injustice to the petitioner if the vehicle is detained pending adjudication in terms of Rule 27 of the Rules.

4. Therefore, I direct that on production of a copy of this judgment, the vehicle KL 10F 9739 shall be released to the petitioner on his giving an undertaking to the 5th respondent that the vehicle will not be alienated and shall be produced as and when called for. This, however, shall be without prejudice to the right of the respondents to continue the proceedings in terms of Rule 27 of the Rules.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

mt/-